

Court of Appeals, State of Michigan

ORDER

Carol Sparapani v Iron County Community Hospitals Inc

Docket No. 286611

LC No. 07-003659-NH

Michael J. Talbot
Presiding Judge

Brian K. Zahra

Kirsten Frank Kelly
Judges

The Court orders, pursuant to MCR 7.205(D)(2), that the trial court's June 25, 2008 order denying defendant's motion for summary disposition is REVERSED. The trial court properly found that the condition was open and obvious. See generally, *Lugo v Ameritech Corp Inc*, 464 Mich 512; 629 NW2d 384 (2001). However, the trial court erred in finding that there were "special aspects" of the condition that made the condition unreasonably dangerous despite its open and obvious nature. First, plaintiff could have simply waited for the nurse to finish wiping up the water before exiting the shower. Therefore, plaintiff was "momentarily inconvenienced", as opposed to "trapped," and the condition was not "effectively unavoidable." See *Lugo, supra* at 518-519; *Joyce v Rubin*, 249 Mich App 231, 242; 642 NW2d 360 (2002). Second, the condition here was insufficient to create the type of substantial risk of death or severe injury necessary to remove the condition from the open and obvious danger doctrine. See *Lugo, supra*; *Corey v Davenport College of Business (On Remand)*, 251 Mich App 1, 6-7; 649 NW2d 392 (2002).

This case is REMANDED to the trial court for further proceedings consistent with this order. We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

NOV 14 2008

Date

Sandra Schultz Mengel
Chief Clerk